

1
UNITED STATES DISTRICT COURT
2
DISTRICT OF NEVADA

3 CHARLES LEVERSON,

4 Plaintiff

Case No. 2:21-cv-01467-APG-BNW

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ORDER6 STATE OF NEVADA, *et al.*,
7 Defendants

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by Charles Leverson, a state prisoner. On August 9, 2021, Magistrate Judge Weksler ordered Leverson to file a fully complete application to proceed *in forma pauperis* or pay the full filing fee of \$402 by October 8, 2021. ECF No. 3 at 2. That deadline has now expired, and Leverson has not filed a fully complete application to proceed *in forma pauperis*, paid the full \$402 filing fee, or otherwise responded to the order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424

1 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local
2 rules).

3 In determining whether to dismiss an action for such reasons, the court must consider
4 several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's
5 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
6 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.

7 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
8 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the first two factors (the public's interest in expeditiously resolving this litigation
10 and my interest in managing the docket) weigh in favor of dismissal. The third factor (risk of
11 prejudice to the defendants) also weighs in favor of dismissal because a presumption of injury
12 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
13 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
14 factor (public policy favoring disposition of cases on their merits) is greatly outweighed by the
15 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his
16 failure to obey the court's order will result in dismissal satisfies the "consideration of
17 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*,
18 779 F.2d at 1424. Judge Weksler's order expressly ordered "that, if Plaintiff does not file a fully
19 complete application to proceed *in forma pauperis* with all three documents or pay the full \$402
20 filing fee for a civil action on or before October 8, 2021, this case will be subject to dismissal
21 without prejudice for Plaintiff to refile the case with the Court, under a new case number, when
22 Plaintiff has all three documents needed to file a complete application to proceed *in forma*
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1 *pauperis* or pays the the full \$402 filing fee.” Thus, Leverson had adequate warning that
2 dismissal would result from his noncompliance with Judge Weksler’s order.

3 I THEREFORE ORDER that this case is dismissed without prejudice based on plaintiff
4 Charles Leverson’s failure to file a fully complete application to proceed *in forma pauperis* or
5 pay the full \$402 filing fee in compliance with this court’s August 9, 2021 order.

6 I FURTHER ORDER the Clerk of Court to close the case and enter judgment
7 accordingly. No other documents may be filed in this now-closed case.

8 DATED: October 23, 2021.

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10 ANDREW P. GORDON
11 UNITED STATES DISTRICT JUDGE

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